

Revision: HCFA-PM-92-3 (HSQB)
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OMB No.:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Kansas

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for the Investigation of Allegations of Resident Neglect
and Abuse and Misappropriation of Resident Property

The State has in effect the following process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a resident in a nursing facility or by another individual used by the facility in providing services to such a resident.

See Attached Pages

~~AUG 06 1992~~
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Number:

Date: October 1, 1990

Subject: Abuse, Neglect, Exploitation

Policy Superseded: None

Policy Statement

All reports of abuse, neglect or exploitation from any source regarding care of Adult Care Home residents or Medical Care Facility patients received by Kansas Department of Health and Environment (KDHE), Bureau of Adult & Child Care (BACC), shall be assigned for investigation, and entered into the record. All confirmed nurse aide perpetrators will be referred to Health Occupations Credentialing to be listed in the Aide Registry and other confirmed licensed perpetrators will be referred to their regulatory agency.

Procedure

1. All reports regarding abuse, neglect or exploitation shall be referred for receiving in the following order:
 - a) Administrator of Complaint Programs
 - b) Field Services Program Coordinator
 - c) Field Services RN
 - d) Consultant Nurse
 - e) Consultant Dietitian
 - f) all other professional staff
 - g) all other clerical staff
2. Form I shall be used to receive all reports.
 - a. Any person receiving a telephone call or personal visit report shall utilize Form I for the recording of pertinent information in identifying the issues of the report.
 - b. Written reports are to be reviewed by the Program Administrator and Form I is to be completed.
3. The program administrator or designee shall assign an identification number to each report and enter the reports in the master abuse, neglect, exploitation log. The program administrator shall complete lines 1, 2, & 3, Form I.
4. The program administrator will assign the complaint by a priority system. Complaints will be given a priority one (1) when a resident is considered to be in a life threatening situation. Priority two (2) will be when a resident is in eminent danger of harm from the allegation. The third (3) priority will include all other complaints which will be investigated under the regular complaint policy. The assignor will include the priority code on the report for investigation (Form I) and will notify the appropriate supervisor regarding scheduling. Personal contact with the resident/patient shall

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be made immediately for all priority one (1) complaints and by the end of the next working day for all priority two (2) complaints. The priority three (3) complaints will follow the regular policy. Personal contact will be made in person or by telephone depending on the situation and the judgement of the supervisor. The investigation must be completed within 14 days of the date the complaint is originally received in the Topeka office for all priority 1 & 2 complaints and according to the regular complaint policy for all priority 3 complaints.

5. The investigator shall conduct the investigation in the following manner:
 - a. The facility administrator, or person in charge the day of the investigation, shall be advised a report is being investigated. The investigator shall maintain confidentiality of the reporter and specific complaint details.
 - b. Investigative techniques used in the process shall include, but are not limited to, interviews with residents/patients, staff or others; review of policies and procedures and records; investigators observation of practices; or any method appropriate to facilities gathering information.
 - c. If the resident is found to be in immediate jeopardy, the investigator will contact their supervisor or designee immediately by telephone. Upon notification, the supervisor will immediately contact the program administrator or designee by telephone that the resident is in immediate jeopardy and list specific concerns.
 - d. The investigator shall complete the investigation within 14 days of the report being received in the Topeka Office and forward completed Forms I, II, & III to their supervisor immediately.
 - e. If violation of licensure and/or certification laws are found, the investigator shall write deficiencies in accordance with the survey procedure.
 - f. The supervisor shall forward all report documentation to the program administrator by the date listed on line 3, page 3, Form I.
6. The program administrator shall review findings and respond to all parties within 3 working days. The program administrator shall forward to the Field Services Program Coordinator any investigation findings resulting in cited deficiencies or any confirmed reports of abuse, neglect and exploitation.

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7. The program administrator will determine the need for protective services from the report and will refer all such cases to the Kansas Department of Social and Rehabilitation Services (SRS) using Form IV and other appropriate documentation within 3 working days. If the resident is found to be in immediate jeopardy the program administrator will contact the SRS program administrator or their designee immediately by telephone.
8. An alleged perpetrator will be notified by the program administrator within 3 working days. If an appeal of confirmation is received it will be referred to KDHE Legal Department within 3 working days with supporting documentation.
9. Upon confirmation of the perpetrator, referral will be made to the appropriate licensure/regulatory agency.
10. The program administrator or designee will log all completed report results into the master log and file the report in the facility confidential file.
11. The program administrator is responsible for monitoring compliance within all time frames.
12. A report of complaints received will be forwarded to the Department of Aging monthly.
13. If at any time during the investigation it appears to the surveyor that a criminal offense has been committed, the surveyor is to immediately contact their supervisor. The supervisor will contact the local law enforcement agency if assistance is required. The law enforcement agency should inform KDHE, BACC of what, if any, assistance is being requested of the surveyor.

The supervisor will be responsible for informing the program administrator of any law enforcement agency involvement.

The KDHE investigation is to be completed, but; does not have to be completed prior to referring the report to law enforcement.

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Adult Abuse, Neglect & Exploitation Reporting & Investigation

Introduction:

Presently Senate Bill 2800 (KSA 39-1403) mandates the Department of Health and Environment (KDHE) to investigate reports of adult abuse, neglect or exploitation in adult care homes and medical care facilities.

- * Adult Care Homes (KSA 39-923) - includes any skilled nursing facility, nursing facility, intermediate personal care home, one and two bed adult care homes and any boarding care homes. All adult care homes are required to be licensed by the Secretary of Health & Environment.
- * Medical Care Facilities (KSA 64-425) - includes any diagnostic and treatment centers or rehabilitation facilities.

Mandated Reporters:

Statute (KSA 39-1402) identifies those persons required to report suspected abuse, neglect and/or exploitation.

Any person who is licensed to practice any branch of the healing arts including but not limited to: a licensed psychologist, a chief administrative officer of a medical care facility, an adult care home administrator, a licensed social worker, a licensed professional nurse or a licensed practical nurse.

Any person required to report information or cause a report of information to be made who knowingly fails to make such report shall be guilty of a class B misdemeanor.

Any other person having reasonable cause to suspect or believe that a resident is being or has been abused, neglected or exploited may report such information.

Other Definitions:

- * "In need of protective services" - a resident unable to perform or obtain services which are necessary to maintain physical and/or mental health.
- * Caretaker - a person or institution who has assumed the responsibility for the care of the resident voluntarily, by contract or by order of a court of competent jurisdiction.
- * Services necessary to maintain physical and/or mental health - include but are not limited to: the provision of medical care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards and maltreatment.
- * Protective Services - services provided by the state or other government agency or private organization shall include but are not limited to: evaluation of need for services, assistance in obtaining appropriate social services and assistance in securing medical and legal services.

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- * Potential Risk - when a reasonable person would not believe abuse, neglect or exploitation currently exists or occurred, but abuse, neglect or exploitation is likely to occur in the future.
- * Confirmed - when a reasonable person would conclude that more likely than not abuse, neglect or exploitation occurred.
- * Unconfirmed - when a reasonable person would conclude that more likely than not abuse, neglect or exploitation had not occurred.
- * Abuse - Mistreatment of residents/patients as follows:
 - a. Infliction of physical pain or injury - 1) reacting inappropriately to a situation, such as pushing or slapping a resident or 2) intentionally doing bodily harm
 - b. Misuse of chemical or physical restraints to control a resident beyond physicians orders or not in accordance with accepted medical practice - 1) failing to loosen restraints within adequate time frames or 2) utilizing drugs inappropriately while attempting to cope with a resident/patients' behavior.
 - c. Infliction of mental/emotional suffering by verbal/emotional abuse - 1) demeaning statements or 2) harassment, threats, humiliation or intimidation of the resident/patient.
- * Neglect - Any physical, medical or verbal/emotional neglect as follows:
 - a. Disregard for necessities of daily living such as failure to provide necessary food, clothing, clean linens or provide daily care of the residents/patients' activities of daily living.
 - b. Lack of care for existing medical problems - 1) ignoring a necessary special diet; 2) not calling a physician as necessary; 3) being unaware of medication side effects or 4) not taking action on medical problems.
 - c. Creating situations in which esteem is not fostered - 1) not considering a resident/patients' wishes; 2) restricting contact with family, friends or other residents; or 3) ignoring the need for verbal and emotional contact.
- * Exploitation - intentionally taking unfair advantage of an resident/patients' physical or financial resources for another individuals' personal or financial advantage by use of undue influence, coercion, harassment, duress, deception, false representation or false pretense.
- * Within twenty-four (24) hours - initial contact will be made in person or by telephone by close of business on the next working day, unless the report indicates the resident/patients' health and/or welfare may be in immediate jeopardy or the resident is in a life threatening situation. If it is determined by the Topeka office that the resident/patient may be in immediate jeopardy or in a life threatening situation the report will be assigned immediately and personal contact will be made within the time frame designated by the Topeka Office.

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The investigation will be completed within two weeks from the date the report was received in the Topeka office.

Notice of the requirements of this act shall be posted in a conspicuous place in every Kansas adult care home and medical care facility.

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I. Receiving Reports

- A. The person taking the report will complete the Form I face sheet. The reporter will then be transferred to the program administrator or designee.
- B. The program administrator or designee will gather as much specific information as possible and determine action based on the following:
 - 1) Does the report indicate the resident is in immediate jeopardy or a life threatening situation?
 - 2) Does the report indicate the resident is in eminent danger of harm from the allegation?
 - 3) Does the report indicate the complaint is of a general nature and needs to follow the established KDHE, BACC complaint procedure?

II. Investigation Process

- A. All reports will be assigned immediately upon receipt or by close of business on the next working day.
 - 1. The report will be relayed to the appropriate regional manager indicating the following:
 - a) Relationship of the reporter to the resident and/or facility
 - b) Nature of report
 - c) Name of facility and address
 - d) Name of the specific resident
 - 2. The written report with appropriate forms will be forwarded to the appropriate supervisor by close of business on the day received for all Code 1 & 2 investigations. Code 3 investigations will be forwarded to the appropriate supervisor following the regular complaint process.
- B. Investigations will begin within 24 hours following notification of the supervisor and will be completed within 2 weeks from the date received in the Topeka office unless otherwise indicated. Upon completion of the investigation all required forms and necessary information will be received in the Topeka office within 18 days from the time the report was received in the Topeka office.

III. Completion and Closure of Report

- A. Upon receipt of the investigation report the program administrator will determine what, if any, protective services are needed and make such recommendations to the Kansas Department of Social & Rehabilitation Services (SRS).
- B. SRS will be responsible for providing protective services and a report of action will be submitted to the program administrator within 21 days.
- C. Upon receipt of the protective service report the case will be closed and filed in the facilities confidential file.

IV. All reports to other agencies or persons will be made by the program administrator. Information regarding the report or the investigation is protected from the public information act and strict confidentiality must be maintained at all times.

(Refer to KDHE complaint policy and procedure and appropriate forms for further instruction regarding deficiency citations)